

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference Aug-21260 WO	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/DE2004/000378	International filing date (day/month/year) 26.02.2004	Priority date (day/month/year) 24.03.2003	
International Patent Classification (IPC) or national classification and IPC			
<p>Applicant MSA AUER GMBH</p>			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>1</u> sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																								
<p>4. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/DE2004/000378

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

 - international search (Rule 12.3 and 23.1(b))
 - publication of the international application (Rule 12.4)
 - international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished

the description:
pages 1-7 as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

the claims:
nos. 2-5 as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19
25.10.2004 with the

nos.* 1 received by this Authority on letter of 25.10.2004

nos.* _____ received by this Authority on _____

the drawings:
sheets 1/1 as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. The amendments have resulted in the cancellation of:

the description, pages _____

the claims, nos. _____

the drawings, sheets/figs _____

the sequence listing (*specify*): _____

any table(s) related to sequence listing (*specify*): _____
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____

the claims, nos. _____

the drawings, sheets/figs _____

the sequence listing (*specify*): _____

any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/DE2004/000378

Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	1 - 5	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1 - 5	NO
Industrial applicability (IA)	Claims	1 - 5	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1. In the present report, reference is made to the following documents:

D1: DE 101 20 775 A (MSA AUER GMBH)
31 October 2002 (2002-10-31).

2 INDEPENDENT CLAIM 1

2.1 The present application fails to satisfy the requirements of PCT Article 33(1) because the subject matter of claim 1 does not involve an inventive step (PCT Article 33(3)).

Document D1 discloses (the references in parentheses are to said document):

a warning system for individuals working in hazardous conditions (D1 title), said system comprising a control unit (1) with a motion sensor (5), a memory for recording events (7), a display (3) and an alarm transmitter (3, 4), the control unit (1) being equipped with a receiver (see D1, claim 4: "each of the

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

individual units of the system being connected via a high frequency radio connection", and column 3, lines 7-13; the disclosure of the receiver is implicit for a radio connection; since a radio connection is provided in D1, a receiver must also - by implication - be present in unit 1) and functioning as a separate, base warning device that operates independently (D1, paragraph 12; a dedicated power supply can be available for the units and therefore unit 1 in D1 is separate and independent) to which it is possible to connect - optionally via a physical connection (bus 8) dependent upon the utilisation and cost requirements - a radio data transmitter (17) and/or a radio telephone (16) and/or, via a [radio] connection, a [radio] manometer (15) for a compressed air breathing apparatus and/or a [radio] measuring appliance for gas [and temperature] detection (12).

Claim 1 differs from D1 in that radio connections are available for the manometer and for the detection of gas, and in that a radio temperature-detection device is present.

The use of physical or radio connections (bus systems) is known from D1 (claim 4). A person skilled in the art would use either wireless or galvanic connections or a mixture of the two

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

dependent upon factors such as cost, without thereby being inventive. Furthermore, the measurement of gas temperatures is known from the prior art (see the present application, page 1, lines 24-27).

The features concerning a radio or physical connection and temperature measurement relate merely to a combination of a plurality of obvious possibilities from which a person skilled in the art would choose according to the circumstances, without inventive input, in order to solve the problem of interest.

3. DEPENDENT CLAIMS 2-5

Claims 2-5 contain no features which, combined with the features of any claim to which they refer, meet the PCT requirements for inventive step.